

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

ROBERT BUENTELLO,

Petitioner,

v.

NATHANTIEL QUARTERMAN,

Respondent.

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C.A. NO. C-06-239

**ORDER**

On this day came on to be considered Petitioner Robert Buentello's "Petition for a Certificate of Appealability" (D.E. 28, 30). Specifically, Petitioner seeks a certificate of appealability "of the denial of his Petition for Writ of Habeas Corpus", and Petitioner identifies several issues regarding outcry witness testimony that he seeks to appeal to the United States Court of Appeals for the Fifth Circuit. (*Id.*). For the reasons set forth below, Petitioner's request for a certificate of appealability is MOOT, because the Court has already ruled on this issue.

On May 15, 2007, this Court adopted the Amended Memorandum and Recommendation of United States Magistrate Judge Brian L. Owsley, recommending that the Court GRANT Respondent Nathaniel Quarterman's motion for summary judgment (D.E. 25, adopting D.E. 24, granting D.E. 17). The Amended Memorandum and Recommendation adopted by this Court specifically addressed the issue of a certificate of appealability, recommending that the Court find that the Petitioner

is entitled to a certificate of appealability only for his claim regarding outcry witness testimony, and that Petitioner is not entitled to a certificate of appealability for his remaining claims. (D.E. 24). Accordingly, when this Court adopted the Amended Memorandum and Recommendation, Petitioner was GRANTED a certificate of appealability as to his claim regarding outcry witness testimony, and DENIED a certificate of appealability as to all other issues. Therefore, Petitioner's recent motion for a certificate of appealability (D.E. 28) is MOOT, as that issue has already been addressed and ruled on by this Court.<sup>1</sup>

SIGNED and ENTERED this the 20th day of June, 2007.

A handwritten signature in black ink, reading "Janis Graham Jack", is positioned above a horizontal line.

Janis Graham Jack  
United States District Judge

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<sup>1</sup>The Court notes that Petitioner's recent request for a certificate of appealability is not entirely clear - Petitioner indicates that he requests a certificate of appealability as to "the denial of his Petition for Writ of Habeas Corpus", but then he limits the rest of his discussion to the issue of outcry testimony. (D.E. 28). It is not clear whether Petitioner is only requesting a certificate of appealability as to the issue of outcry witness testimony. Regardless, all aspects of the issue of a certificate of appealability have already been ruled on by this Court, so Petitioner's request is MOOT in its entirety.